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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/967,070	09/28/2001	Russell Pond	NC25614 (NOK115-25614)	4895
826 7590 02/23/2007 ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			EXAMINER EKONG, EMEM	
			ART UNIT	PAPER NUMBER
			2617	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/23/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 09/967,070	Applicant(s) POND, RUSSELL	
	Examiner EMEM EKONG	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 20 is rejected under 35 U.S.C. 102(e) as being anticipated by US publication No. 2005/0153729 A1 to Logan et al.

Regarding claim 20, Logan et al. discloses an apparatus for receiving short voice message service messages from an originating station through a wireless telecommunication network (abstract), said apparatus comprising: a packet-data generator for converting an SVMS message into a packet-data format for transmission (microprocessor 101); and a storage device (data memory) for electronically storing the SVMS message until it can be transmitted to an SVMS-MSC (remote server) (pars. 0015, 0017-0018, 0032, 0037-0038, and 0058-0059).

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4. Claims 20, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,881,104 to Akahane.

Regarding claim 20, Akahane discloses an apparatus for receiving short voice message service messages from an originating station through a wireless telecommunication network (abstract), said apparatus comprising: a packet-data generator for converting an SVMS message into a packet-data format for transmission (packet data generator 37); and a storage device (memory 35) for electronically storing the SVMS message until it can be transmitted to an SVMS-MSC (i.e. network switching control center) (see figure 3, col. 2 line 60-col. 3 lines 14, and col. 6 lines 17-30).

Regarding claim 21, Akahane discloses an apparatus for receiving short voice message service messages from an originating station through a wireless telecommunication network (abstract), said apparatus comprising: a receive circuitry (see figure 6) configured to receive an SVMS message in a packet-data format (col. 6 lines 37-39); and a storage device (memory 55) for electronically storing at least a portion of the SVMS message prior to presenting the SVMS message (col. 6 line 52-53); and packet disassembly circuitry (i.e. unpacketer, data decompressor to receive the SVMS message in the packet-data format and to process the SVMS message into a digital data format (col. 6 line 40-col. 7 line 24).

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Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 1, 2, 10, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,507,735 B1 to Baker et al. (Baker) in view of Akahane.

Regarding claims 1, 10, and 19, Baker discloses a system for transmitting short voice message service messages to an intended recipient through a radio communication network (col. 1 lines 6-10), said system comprising: a first communication station (see figure 1), and an SVMS-MSC for receiving the packetized SVMS message and storing it until it can be transmitted to the intended recipient (col. 3 lines 14-21). However, Baker fails to specifically disclose a first communication station, comprising: a packet-data generator for converting an SVMS message into a packet-

data format for transmission; and a storage device for electronically storing the SVMS message until it can be transmitted to an SVMS-MSC.

Akahane discloses further discloses a packet-data generator for converting an SVMS message into a packet-data format for transmission (packet data generator 37); and a storage device (memory 35) for electronically storing the SVMS message until it can be transmitted to an SVMS-MSC (i.e. network switching control center) (see figure 3, col. 2 line 60-col. 3 lines 14, and col. 6 lines 17-30).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Baker with Akahane, and have a packet-data generator for converting an SVMS message into a packet-data format for transmission; and a storage device for electronically storing the SVMS message until it can be transmitted to an SVMS-MSC for the purpose of converting the message into an appropriate format for transmission.

Regarding claim 2, the combination of Baker and Akahane discloses the system of claim 1, further comprising a microphone in the first communication station for receiving an audio input, converting it into electronic signals, and providing the electronic signals to the packet-data generator (col. 3 lines 60-67).

8. Claims 1-10, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S Patent No. 6,507,735 B1 to Baker et al. (Baker) in view of Logan et al.

Regarding claim 1, Baker discloses a system for transmitting short voice message service messages to an intended recipient through a radio communication

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network (col. 1 lines 6-10), said system comprising: a first communication station (see figure1), and an SVMS-MSC for receiving the packetized SVMS message and storing it until it can be transmitted to the intended recipient (col. 3 lines 14-21). However, Baker fails to specifically disclose a first communication station, comprising: a packet-data generator for converting an SVMS message into a packet-data format for transmission; and a storage device for electronically storing the SVMS message until it can be transmitted to an SVMS-MSC.

Logan et al. discloses further discloses a packet-data generator (microprocessor) for converting an SVMS message into a packet-data format for transmission; and a storage device (data memory) for electronically storing the SVMS message until it can be transmitted to an SVMS-MSC (pars. 0015, 0017-0018, 0032, 0037-0038, and 0058-0059).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Baker with Logan et al., and have a packet-data generator for converting an SVMS message into a packet-data format for transmission; and a storage device for electronically storing the SVMS message until it can be transmitted to an SVMS-MSC for the purpose of converting the message into an appropriate format for transmission.

Regarding claim 2, the combination of Baker and Logan et al. discloses the system of claim 1, further comprising a microphone in the first communication station for

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receiving an audio input, converting it into electronic signals, and providing the electronic signals to the packet-data generator (Logan et al., pars. 31-32).

Regarding claim 3, the combination of Baker, and Logan et al. discloses the system of claim 1, further comprising a text to speech converter in communication with the first communication station for converting a text file into digital audio form and providing the digital audio signal to the packet-data generator (Logan et al., pars. 16-17, 47, and 58).

Regarding claim 4, the combination of Baker, and Logan et al. discloses the system of claim 1, wherein the intended recipient is a mobile telephone, and said system further comprises a home location register (HLR) for storing information regarding the mobile telephone (Baker, see figure 1, and col. 2 lines 63-65).

Regarding claim 5, the combination of Baker, and Logan et al. discloses the system of claim 4, wherein the SVMS-server queries the HLR to determine if the mobile telephone is SVMS capable (Baker, col. 2 lines 62-66).

Regarding claims 6 and 8, the combination of Baker, and Logan et al. discloses the system of claim 5, wherein the SVMS-server, upon receiving a response from the HLR indicating that the mobile telephone is not SVMS capable, delivers the SVMS message by an alternate delivery method (Baker, col. 2 line 62-col. 3 line 5).

Regarding claim 7, the combination of Baker, and Logan et al. discloses the system of claim 5, further comprising a voice-mail server (means for storage) in communication with the SVMS-MSC and accessible to the subscriber, and wherein the alternate delivery method includes storing the SVMS message as a voice-mail message on the voice-mail server (Baker, col. 3 lines 1-24).

Regarding claim 9, the combination of Baker, and Logan et al. discloses the system of claim 1, wherein the first communication station is connectable to the Internet such that the SVMS message may be transmitted to the SVMS-MSC through the Internet (Logan et al., par. 88).

Regarding claims 10, and 19, Baker discloses a method and apparatus of enabling the transmission of an SVMS message from an originating station to a target station through a wireless telecommunication network (col. 1 lines 6-10), said method comprising the steps of: receiving an SVMS message in packet-data format in an SVMS server; storing the SVMS message in a data storage device in (col. 3 lines 14-22, and col. 4 lines 4-6); determining a transmission path to the target station for delivering the SVMS message; and transmitting the SVMS message (col. 3 lines 19-24).

However, Baker fails to disclose, and storing the message in a data storage device in communication with the SVMS server.

Logan et al. discloses storing the SVMS message in a data storage device (i.e. data memory) in communication with the SVMS server (pars. 0032, and 0038).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Baker with the communication system of Logan et al. for the purpose of storing voice message for future retrieval.

9. Claim 11-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker in view of Logan et al. and further in view of U.S Patent No. 6891811 B1 to Smith et al. (Smith).

Regarding claims 11-14, 17 and 18, the combination of Baker and Logan et al. discloses the method of claim 10, however fails to disclose further comprising the step of verifying delivery of the SVMS message to the target station; and further comprising the step of sending a delivery confirmation notice to the originating station, upon verifying delivery; further comprising the step of determining if the target station is SVMS capable; wherein the step of transmitting comprises transmitting the SVMS message to the target station upon determining that the target station is SVMS capable.

Smith discloses verifying delivery of the SVMS message to the target station; and further comprising the step of sending a delivery confirmation notice to the originating station, upon verifying delivery (col. 3 lines 59-65); further comprising the step of determining if the target station is SVMS capable (col. 3 line 66-col. 4 line 14); wherein the step of transmitting comprises transmitting the SVMS message to the target station upon determining that the target station is SVMS capable (col. 4 line 15-35),

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Smith further discloses wherein the SVMS message is received from an SVMS portal; and wherein the SVMS portal is a World Wide Web site accessible by subscribers to direct that an SVMS message be generated upon the occurrence of a certain event (see figure 2, and col. 6 line 46-col. 7 line 41).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination with the communication system of Smith for the purpose of confirming transmission of message.

Regarding claim 15, the combination of Baker, Logan et al., and Smith discloses the method of claim 13, wherein the step of transmitting comprises transmitting the SVMS message to a voice-mail server for storage (Baker, col. 3 lines 14-18).

Regarding claim 16, the combination of Baker, Logan et al., and Smith discloses the method of claim 15, further comprising the step of sending to the target station a notification that the SVMS message was transmitted to a voice-mail server (Baker, col. 4 lines 3-11).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EMEM EKONG whose telephone number is 571 272 8129. The examiner can normally be reached on 8-5 Mon-Fri..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on 571 272 7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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